

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

BRUCE A. GRANILLO,

Petitioner,

v.

No. 23-cv-0194-JCH-KBM

GEORGE STEPHENSON, *et al*,

Respondents.

**ORDER TO ANSWER**

This matter is before the Court on Petitioner Bruce Granillo's 28 U.S.C. § 2254 Habeas Corpus Petition (Doc. 1) (Petition). Also before the Court is his Motion to Proceed *In Forma Pauperis* (Doc. 2), which reflects he cannot afford to prepay the habeas filing fee. The Court will grant that Motion. As to the Petition, Granillo challenges his state convictions based on, inter alia, evidentiary errors. Granillo is no longer in prison, but based on the length of his sentence, it appears he was serving a term of probation when the case was filed. *See Hamilton v. Bird*, 650 Fed. App'x 585, 587 n.1 (10th Cir. 2016) ("[p]robationary status is sufficiently 'in custody' pursuant to section 2254 to permit habeas relief.") (quotations omitted). Having reviewed the Petition pursuant to Habeas Corpus Rule 4, the Court must resolve the claims on a full record.

**IT IS ORDERED** that the Clerk shall mail copies of this Order and the Petition (**Doc. 1**) to Respondent Attorney General of the State of New Mexico (AG) at the following address:

Attn: Federal Habeas Attorney(s)  
New Mexico Office of the Attorney General  
Criminal Appeals Division  
201 Third St. NW, Suite 300, Albuquerque, NM 87102

**IT IS FURTHER ORDERED** that the AG must answer the Petition within **60 days** of

entry of this Order. The answer must address the merits of each claim and may provide additional information on exhaustion or on Granillo's custody status, if that matter is in dispute. If the Petition is mixed, such that it contains both exhausted and unexhausted claims, the AG shall take a position on how to proceed (*i.e.*, stay the proceeding, dismiss the unexhausted claims, overlook the defect and deny the claim(s) on the merits, etc). The AG must attach to its answer copies of all pertinent filings from the state trial court, the state court of appeals, and the state supreme court; including memoranda filed by both parties. The AG must also attach to the answer copies of all state post-conviction or appellate proceedings and any transcripts that are needed to resolve the claims.

**IT IS FURTHER ORDERED** that if Granillo wishes to file an optional reply, he must do so within **30 days** after the AG's response is filed.

**IT IS FINALLY ORDERED** that Granillo's Motion to Proceed *In Forma Pauperis* (**Doc. 2**) is **GRANTED**.

  
UNITED STATES MAGISTRATE JUDGE